

## The GOP Redistricting Position in December of 2014

Due to the GOP's spectacular success in the 2010 General Election, the Party found itself in a commanding position to take full advantage of the 2011 redistricting process. This was particularly true with regard to congressional districting. The party's gains in 2010 were protected by its control of the line drawing process in states containing over 200 seats, while the Democrats only controlled the process in states containing just over 40 seats – a five-fold advantage.

Democrat seat gains in states such as Arizona, California (both commission states); as well as Illinois, and Maryland were more than counter-balanced by GOP gains in North Carolina, South Carolina, Georgia and Texas. We were also able to retain seats in states such as Michigan, Ohio and Pennsylvania, even though those states lost seats in the House in the reapportionment following the 2010 Decennial Census. The Democrats were forced to take the “hit” caused by the loss of seats in reapportionment.

Electoral success in a good election cycle, such as 2010, can be chipped away in successive elections, but a successful line-drawing process both creates districts as well as constituting a buttress against losses in subsequent, less-favorable elections.

The problem the GOP needs to come to terms with is that redistricting does not end with the enactment of initial plans. We see this problem manifesting itself in myriad of new lawsuits in which the Democrats are investing millions in legal resources challenging our districting plans and resisting our challenges against their plans.

We must remind ourselves the GOP's success in redistricting actually had its genesis in a decade-long struggle in the federal court system beginning in the 1980's. The GOP gained partisan advantage at the same time African-Americans and Latino minorities gained control of their own districts due to the application of Sections 2 & 5 of the Federal Voting Rights Act of 1965.

GOP attorneys and redistricting experts successfully fought three decades of court battles which culminated just this November when the GOP gained full political control of the entire South from Texas through North Carolina. The last state to turn “red” was Arkansas just this last month.

As this multi-decade long process unfolded, the Democrat Party’s base in the South turned more and more liberal as moderate Democrats were replaced by Republicans. As more and more minority districts were created, Democrats became less and less able to take advantage of strong Democratic minority areas to create districts which would elect non-minority Democrats to both state legislatures and Congress.

Subsequently, Democrats have turned to state and federal courts in an attempt to claw back their lost districts by trying to convince courts that majority-minority districts are not required by the Voting Rights Act. Democrats are seeking to establish new law which will mandate minority voters the right to maximize their votes, as DEMOCRATS, by substituting “influence”, “crossover” and “coalition” districts with minority percentages in the 30s and 40s for majority-minority districts in excess of 50% minority populations.

In Alabama, the Democrats are even attempting to convince the United States Supreme Court that minority districts should be deliberately underpopulated to allow Democrat-rich minority voters to be spread out into neighboring districts to aid in the election of more white Democrat legislators and members of Congress.

There is currently ongoing or prospective litigation, in Arizona, Texas, Alabama, Florida, South Carolina, North Carolina and Virginia and in several states there are multiple cases. The stakes are extremely high in this litigation. Not only could congressional and legislative plans favorable to the GOP be overturned and replaced by plans more favorable to the Democrats, but legal principles could also be established that will severely weaken the GOP’s position going into the next redistricting cycle in 2020. If the Arizona Legislature wins its current case before the United States Supreme Court, which has already been set for argument, then congressional redistricting plans will have to be redrawn in as many as four states, Arizona, California, Washington and New Jersey. Given that the Supreme Court has already noted jurisdiction in this case, the Arizona Legislature's chances of

winning are at least 50-50, if not better. Furthermore, due to our recent electoral success in the 2014 elections we now have the opportunity to redraw the legislative and congressional map in Nevada in order to solidify the recent gains.

If the Democrats are successful in their current round of lawsuits, they will continue to challenge additional GOP-drawn maps for the remainder of the decade. They are not going to tire or give up as long as there is any chance of success since they are funded by a coalition of three unions.

Democrats have already enjoyed limited legal success in Texas, Alabama and Virginia, primarily due to the GOP drafters unwillingness to remain attentive to the required legal guidelines recommended by the RNC legal team. Should those states' redistricting plans be tossed out by the courts, they will need continuing legal and technical assistance to avoid becoming ensnared in the same legal traps the second time they are required to draw plans.

At the present time Dale Oldham is currently involved in litigation in Alabama, Virginia, North Carolina, Florida, Arizona and Texas providing expert legal advice, drafting and litigation assistance. Tom Hofeller is currently involved in North Carolina and Virginia. He could soon become involved in Alabama, Arizona, and Texas. Mike Wild is providing vital data and technical support for all these efforts. Dale and Tom also continue to update and monitor potential Republican stakeholders in states which are not currently undergoing litigation, tracking the pertinent operations at the United States Bureau of Census as well as monitor potential litigation which may arise from unexpected jurisdictions as well as legislation which may alter the legal principles under which redistricting currently operates.

Dale's monthly retainer being billed by Geographic Strategies (\$16,914) constitutes payment for 49 hours in terms of his low-end hourly billing rate. Tom Hofeller's retainer is currently \$5,333) and is the equivalent of just under 18 hours per month. Mike Wild's full time salary at the RNC is \$12,000.

We can rest assured that these legal challenges will not end until the Democrats attain their goal of defeating GOP-drawn maps and replacing them with court-drawn or Democrat-drawn maps. The stakes are just too high for them to ever give up.

Just this November, the Democrats gained a favorable ruling against our congressional plan in Virginia which could potentially cost us 1 to 3 seats.

Additional congressional seats at stake are: 3 to 4 seats in North Carolina, 2 to 4 seats in Florida, and 1 to 2 seats in Texas.

With the successful challenge waged against Sections 4 and 5 of the Voting Right Act (*Shelby County*), the entire set of jurisprudence governing the application of Sections 2 and 5 of the Voting Rights Act is now in a state of flux. The Democrats fully intend to rework this law fully to their advantage. If they are successful, we can expect further challenges to both congressional and legislative redistricting maps favorable to the GOP. This is not speculation on my part, but a strategy fully enunciated by Democrat legal strategists from the very beginning of the current redistricting cycle. Our majorities in many state legislatures could be weakened due to redrafted plans – often overseen by Obama-appointed federal judges.

We must win or hold our own in this redistricting legal battle or the maps drawn in the next cycle (2021) will be considerable less favorable to the GOP.

The RNC redistricting team is the ONLY GOP resource which bring a comprehensive national perspective to this vital legal struggle and to what may be subsequent redrafting processes throughout the Nation as this multistate legal process unfolds. We are presently involved in all the critical redistricting cases presently underway and expect further challenges to be mounted by the Democrats over the next couple of years.

It is important to remember that the last U. S. Supreme Court decision of the 2000 redistricting cycle was not handed down by the Court until 2009 - NINE years into the decade. This decision was critical to our legal position in this present redistricting cycle, and came perilously close to being abandoned and lost merely by the unwillingness of the GOP to commit resources.

Like it or not the 2010 redistricting process is far from complete, and the Democrats would gleefully celebrate our abandonment of the battle field just as Obama abandoned our military gains in Iraq. The RNC's annual rate of investment of less than \$411,000 per year in an active RNC redistricting operation represents an amount could reasonably be considered petty cash when compared to

the billions now being raised in each election cycle. Even more notable is that it need not be supported by FECA dollars.

In addition to the legal process, the GOP still has not developed a redistricting data strategy to preserve its present data assets and build this decade's redistricting databases for the next cycle in 2020. Even though the RNC may only be a partner in this endeavor, it is essential that we provide input, leadership and experience in the creation of the proper vehicle to undertake this vital function. The Democrats already have such a vehicle which is the fully functional. This is the National Committee for and Effective Congress (NCEC).

The RNC current Redistricting Office is the only nationwide source of redistricting data and technology. Access to these resources needs to be maintained if we are going to have the ability to continue providing an effective level of support to litigation across the nation. As the decade further unfolds, more and more of the expertise out in the states will be lost as key legislators and staff move on or are replaced. At the present time, we only have one person left at the Committee able to fulfill this critical role.

This is also the opportune time for the RNC to consolidate its historical legal archive. We must discard documents which are no long needed and convert remaining documents to electronic format. While many court decisions are already available online, other decisions, as well as briefs, and expert testimony are not available on the internet.

Redistricting is one of the most profitable and business like investments that the GOP can make. Even if it results in only the gain or preservation of one or two additional congressional seats for 10 years, it is more that worth this investment.

For this reason, I urge the Committee to continue its effort throughout the next few years, or until it can be transferred to another secure funding source.